

## Chapter 5: Toward Better Planning for Growth in Montana Communities Council Findings and Recommendations

The EQC'S findings and recommendations are presented below.

### **A. Effective Planning for Growth: Key Findings**

#### **1. Moving Beyond Subdivision Review**

- a.** Subdivision regulations are not an appropriate or efficient mechanism to address growth for the following reasons:
  - Subdivision review is reactive -- local governments must respond to a proposal to divide a specific piece of land within a short time frame.
  - Neither the process nor the time frame allow for capital improvements planning or for an evaluation or discussion of: whether or not population growth is occurring, current land use trends, or where growth is desirable and most cost-effective.
  - Subdivision regulations do not affect land that is already subdivided or land exempt from the requirements of the Subdivision and Platting Act.
- b.** Planning (including capital improvements planning), zoning and subdivision review are tools that complement each other and that should be used together. More emphasis should be placed on planning and implementing regulations. Some Montana urban communities and a few rural areas have successfully addressed growth through planning and zoning.
- c.** Neither developers or neighboring landowners are satisfied when citizens look to the subdivision process as a means for deciding where growth should occur. Citizens may not understand the role of planning versus subdivision review. Furthermore, if there isn't a current plan or an ongoing planning process, the subdivision review process may offer the only opportunity for citizens to participate in decisions affecting land use. Decisions regarding where growth should occur and what type of land use should be permitted should take place during the development of plans and zoning regulations.
- d.** The subdivision review process should focus on: ensuring that development is compatible with the existing plan, review of site-specific characteristics, design review, and ensuring that adequate infrastructure will be in place.

Montana Consensus Council publications explain how to solve public policy issues by consensus; case studies illustrating the application of these techniques to growth issues in Montana communities are also available. A handbook on resolving land use disputes is being developed.

The Consensus Council has helped several local governments with planning and other land use issues. Examples include:

- North Jefferson County (zoning).
- Ravalli County (planning).
- City of Helena (subdivision review).
- Gallatin County (incentives for open space).
- Beaverhead County Community Forum (land use and growth management).

#### **6. Natural Resource Information System (NRIS)**

The Natural Resource Information System (NRIS) is a program of the Montana State Library that serves as a clearinghouse and referral service for natural resources information. There are three programs within NRIS:

- **Geographic Information System.** Provides maps, map data, analytical services and technical assistance to the growing number of users of computerized mapping programs.
- **Water Information System.** Provides information on water quantity and quality, water rights and riparian areas.
- **Natural Heritage Program.** A computer-assisted inventory of Montana's biological resources, with an emphasis on rare or endangered plant and animal species and biological communities.

#### **7. Montana Department of Revenue**

The Montana Department of Revenue can provide the following data that are useful for planning:

- Land ownership.
- Value and acreage of a specific parcel.
- Land use as identified by the property tax code (e.g., predominately irrigated, grassland, etc.).
- Geocode (location).
- Lots created in each county during a given year.

For some counties, the department may be able to track the property tax code, noting not only the number of lots created, but also whether the land use on a specific lot has changed.

- e. In most jurisdictions, subdivision review takes precedence over planning due to several factors: subdivision review is required, planning is not; plans are vague and it is difficult to apply vague plans to the subdivision review process; mandatory timeframes for subdivision review; limited resources for planning; increased participation (including litigation) in the subdivision review process; and increased subdivision activity.

## **2. Citizen Involvement**

- a. Decisions that affect land use are controversial; therefore, an effective citizen involvement program is an essential element of a successful planning effort. There is at least one example in Montana where a significant amount of money, time and effort was spent on developing a plan only to have it rejected by voters.
- b. Communities in Montana have been successful in developing and adopting plans when citizen opinions are solicited at the very beginning of the process and opportunities for involvement are present throughout the process.
- c. Neighborhood planning has proven to be a successful tool for getting citizens effectively involved in growth issues in several Montana communities.
- d. Development of a plan and implementing regulations that are accepted by the citizens takes time.
- e. When local governments have adopted an adequate plan, the process of subdivision review should be a technical review process and should not be political.

## **3. Neighborhood Planning and Zoning**

- a. Neighborhood planning and zoning has been successful in many areas of Montana when it is:
  - initiated by citizens in a neighborhood; and
  - adopted under the authority of the laws enabling master plans and county (Part 2) zoning.
- b. If a master plan has not been adopted, citizen-petition zoning can be exclusionary. Furthermore, provisions governing zoning districts within a jurisdiction may be inconsistent with each other.

## **4. Open Space**

- a. A number of mechanisms exist in current law to preserve open space. Funding is needed in order to make use of some of these options.

- b. Decisions to protect open space or productive agricultural or forest land should occur under the guidance of a master plan so that the community can ensure that the appropriate areas are protected and may also provide for growth to occur in a cost-effective manner.
- c. Preserving "open space" and/or "agricultural land" means many things to many people. Vague policies may lead to conflict. Communities that develop policies to preserve open space or productive agricultural or forest land should be specific about what aspects they wish to protect.

## **5. Facilitating Development in and Around Urban Areas**

- a. Development in areas where services already exist is usually more cost effective than random development. Development in and around urban areas should be encouraged.
- b. There are a number of disincentives to development in and around urban areas. Possible disincentives include: zoning regulations, impact fees, tax policies, lack of funding for infrastructure, subsidies for infrastructure and services in areas that are more expensive to serve, and other subsidies.
- c. Planning for and paying for development of infrastructure is a key element of encouraging development in and around urban areas.
- d. Cities and towns may find it difficult to raise money to pay for their own infrastructure needs and may not be able to extend infrastructure into the county. The law could be amended to make it clear that counties are authorized to make financial contributions to municipal infrastructure.

## **6. Impact Fees**

- a. Development exactions, including impact fees, are a tool that local governments can use to ensure that new development pays for at least some of the additional burden on public facilities resulting from that development.
- b. Local governments have express authority to collect specific types of development exactions under the Subdivision and Platting Act. Local governments have implied authority to assess impact fees under the planning and zoning enabling laws as well as the Subdivision and Platting Act.
- c. The effects of impact fees are controversial. Some argue that they encourage sprawl by making it less costly to locate outside of the jurisdiction where impact fees are assessed. Others argue that they discourage sprawl by providing a mechanism to pay for infrastructure.

- d. There has been considerable controversy concerning the level of impact fees and the use of those fees.

## **7. GIS**

- a. Geographic information systems (GIS's) have been useful for planning, zoning and subdivision review.
- b. The Montana Cadastral Mapping Project could significantly aid local governments with the use of GIS's in planning, zoning and subdivision reviews by providing a geo-code identified database of parcels that can be linked to other land use data. It should be noted that the quality of the database will depend on the quality of the records used.
- c. Continued coordination among local governments, state and federal agencies and other parties is needed to ensure that data collected by various entities are compatible.
- d. Resources and opportunities for sharing existing resources are needed in order to enable communities that are planning for growth to make use of GIS technology. Making data available through the Natural Resources Information System (NRIS) clearinghouse and other mechanisms will help to minimize the costs of using GIS.

## **8. Coordination Between Local Governments**

- a. Coordination between cities, towns and counties is critical in order to ensure that development is orderly and compatible and also to encourage growth in and around urban areas.
- b. There are several mechanisms that enable cities and towns to work together with counties to address growth issues. These mechanisms are being used in several locations. Mechanisms authorized by state law include joint, consolidated and city-county planning boards. Some local governments coordinate less formally.
- c. State law enables, but does not require, coordination between local governments. There is little coordination between local governments in some areas.

## **9. Funding**

- a. Planning can save money by encouraging growth to occur in a way that is more cost-effective with respect to provision of infrastructure and services. However, some local governments have not placed a high priority on planning and have not allocated sufficient funds to plan for growth. Local governments should be encouraged to place a higher priority on planning for growth.

- b. More funding options are needed to encourage local governments to invest in planning.

## **B. Recommendations for Action by the Legislature**

The EQC's recommendations for action by the Legislature are consistent with the goal statement for the Growth Study Subcommittee: they focus on promoting and facilitating effective planning for growth as well as implementation of growth policies.

The Growth Study Subcommittee received several suggestions regarding revision of the Subdivision and Platting Act. At the same time, several representatives of local government cautioned against revising the law. They noted that revising subdivision regulations to comply with state law is costly.

The EQC concluded that more emphasis must be placed on planning and implementation measures rather than relying on subdivision review alone to address growth. Furthermore, better planning and effective implementation of those plans should improve both the process and the outcome of subdivision review. Therefore, the EQC chose to focus on planning and related implementation measures first. The EQC did identify some concerns about the Subdivision and Platting Act and is recommending that these issues be studied during the 1999-2000 interim.

Legislation drafted by request of the EQC is included in **Appendix 2**. Legislative Council (LC) bill draft numbers corresponding to the appropriate bill draft are provided in parentheses in the text that follows.

### **1. Growth Policies (LC 475)**

Current law allows local governments to adopt master plans and provides a long list of primarily descriptive elements that *may* be included in the plan. The EQC proposes to change the term "master plan" to "growth policy" and to establish minimum requirements for the growth policy. These new minimum requirements are different from the old requirements; they are oriented toward the future and toward action. They provide a framework for implementation activities, including capital improvements planning and subdivision regulations.

Neighborhood planning has been successful in several Montana communities. The EQC proposes to encourage and specifically authorize neighborhood planning in communities that have adopted growth policies.

The Subdivision and Platting Act requires the governing body to evaluate proposed subdivisions with respect to the effect on the following "public interest" criteria: agriculture, agricultural water user facilities, local services, the natural environment, wildlife and wildlife habitat, and public health and safety. The EQC wants to encourage communities to address these issues "up front" in the process of developing growth policies. The proposed legislation would require communities